



DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**[Docket No. 230331-0089]**

**RTID 0648-XD129**

**Pacific Halibut Fisheries of the West Coast; Catch Sharing Plan; Inseason Action**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment; request for comments.

**SUMMARY:** NMFS announces inseason actions for certain subareas in the Pacific halibut recreational fishery in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. Specifically, this action adds the following fishing dates: the Washington Puget Sound subarea to open 7 days per week from August 17 through September 30; the Washington North Coast subarea to open 7 days per week from August 17 through September 30; the Columbia River and Washington South Coast subareas to open August 26 and 27, September 8, 9, and 22; and Oregon Central Coast subarea to open 7 days per week from August 3 through October 31. This action is intended to conserve Pacific halibut and provide angler opportunity where available.

**DATES:** *Effective date:* July 19, 2023, through October 31, 2023.

*Comment date:* Comments due on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by NOAA-NMFS-2023-0128, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2023-0128 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Jennifer Quan, Regional Administrator, c/o Katie Davis, West Coast Region, NMFS, 501 W Ocean Blvd., Long Beach, CA 90802.

*Instructions:* NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

*Docket:* This rule is accessible via the Internet at the Office of the Federal Register website at <https://www.federalregister.gov/>. Background information and documents are available at the NOAA Fisheries website at <https://www.fisheries.noaa.gov/action/2023-pacific-halibut-recreational-fishery> and at the Council’s website at <https://www.pcouncil.org>. Other comments received may be accessed through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Katie Davis, 323-372-2126, [katie.davis@noaa.gov](mailto:katie.davis@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On April 11, 2023, NMFS published a final rule approving changes to the Pacific halibut Area 2A Catch Sharing Plan and implementing recreational (sport) management measures for the 2023 Area 2A recreational fisheries (88 FR 21503), as authorized by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773-773(k)). The Pacific Fishery Management Council (Council) 2023

Catch Sharing Plan provides a recommended framework for NMFS' annual management measures and subarea allocations based on the 2023 Area 2A Pacific halibut catch limit of 1,520,000 pounds (lb) (689 metric tons (mt)) set by the International Pacific Halibut Commission (IPHC). The Area 2A catch limit and recreational fishery allocations were adopted by the IPHC and were published in the **Federal Register** on March 7, 2023 (88 FR 14066) after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. The Area 2A Pacific halibut management measures include recreational fishery season dates, bag limits, and subarea allocations.

Federal regulations at 50 CFR 300.63(c)(6), "Inseason Management for Recreational (Sport) Halibut Fisheries in Area 2A.," allow the NMFS Regional Administrator to modify annual regulations during the season. These inseason provisions allow the Regional Administrator to modify recreational (sport) fishing periods, bag limits, size limits, days per calendar week, and subarea allocations, if it is determined it is necessary to meet the allocation objectives and the action will not result in exceeding the catch limit.

NMFS has determined that, due to lower than expected landings in the Washington Puget Sound, North Coast, and South Coast subareas; the Columbia River subarea; and the Oregon Central Coast subarea; inseason action to modify the 2023 annual regulations for the recreational fishery is warranted at this time to provide additional opportunity for fishery participants to achieve the Area 2A subarea allocations. As stated above, inseason modification of fishing season dates is authorized by Federal regulations at 50 CFR 300.63(c)(6). After consulting with the IPHC, the Council, the Washington Department of Fish and Wildlife (WDFW), and the Oregon Department of Fish and Wildlife (ODFW), NMFS determined the following inseason actions are necessary to meet the management objective of attaining subarea allocations, will not

result in exceeding any subarea allocations, and are consistent with the inseason management provisions allowing for the modification of recreational fishing periods and recreational fishing days per calendar week. Notice of these additional dates and increased bag limits will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Weekly catch monitoring reports for the recreational fisheries in Washington, Oregon, and California are available on their respective state Fish and Wildlife agency websites. NMFS and the IPHC will continue to monitor recreational catch obtained via state sampling procedures until NMFS has determined there is not sufficient allocation for another full day of fishing, and the area is closed by the IPHC, or the season closes on September 30 in Washington and the Columbia River subarea or October 31 in Oregon, whichever is earlier.

### **Inseason Action**

#### *Washington Puget Sound, North Coast, and South Coast subareas*

*Description of the action:* This inseason action implements additional fishing dates for the Washington Puget Sound, North Coast, and South Coast subareas during the 2023 recreational fishery. The Puget Sound subarea will open 7 days per week beginning on August 16 and will close when the subarea allocation is projected to be attained, or on September 30, whichever comes first. The North Coast subarea will open 7 days per week beginning on August 16 and close when the subarea allocation is projected to be attained, or on September 30, whichever comes first. The South Coast subarea will open on August 26 and 27, and September 8, 9, and 22, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed.

*Reason for the action:* The purpose of this inseason action is to provide additional opportunity for anglers in the Washington Puget Sound, North Coast, and South Coast subareas to achieve the subarea allocations. NMFS has determined that

these additional dates are warranted due to lower than expected landings through June 18, and the expectation that a substantial amount of the Washington allocation will go unharvested without additional fishing dates.

The Washington Puget Sound subarea will open 7 days per week beginning August 16 and will remain open until September 30 or the allocation is projected to be attained and the area is therefore closed. The recreational fishery in this subarea opened on April 6, 2023. As of June 18, anglers in the Puget Sound subarea have harvested 34,606 lb (15.70 mt) of the 79,031 lb (35.85 mt) allocation (44 percent), leaving 44,425 lb (20.15 mt) remaining (66 percent of the subarea allocation).

The Washington North Coast subarea will open 7 days per week beginning August 16 and will remain open until September 30 or the allocation is projected to be attained and the area is therefore closed. The recreational fishery in this subarea opened on May 4, 2023. As of June 18, anglers in the North Coast subarea have harvested 54,702 lb (24.81 mt) of the 129,668 lb (58.82 mt) allocation (42 percent), leaving 74,966 lb (34.00 mt) remaining (68 percent of the subarea allocation).

The Washington South Coast subarea will open August 26 and 27, and September 8, 9, and 22 or the allocation is projected to be attained and the area is therefore closed. The recreational fishery in this subarea opened on May 4, 2023. As of June 18, anglers in the South Coast subarea have harvested 43,159 lb (19.58 mt) of the 64,376 lb (29.20 mt) allocation (67 percent), leaving 21,217 lb (9.62 mt) remaining (33 percent of the subarea allocation).

After consulting with WDFW, it was determined that in order for anglers to have the opportunity to achieve the Washington subarea allocations, with little risk of the subareas or coastwide allocation being exceeded, additional fishing dates are warranted. Therefore, through this action, NMFS is announcing fishing dates in August and

September that were not previously implemented in the final rule on April 11, 2023 (88 FR 21503) or through inseason action implemented on June 2, 2023 (88 FR 36973).

Specifically, the additional season dates for the Puget Sound subarea are August 16 through September 30 or until there is not sufficient allocation for another full day of fishing and the area is therefore closed. The additional dates for the North Coast subarea are August 16 through September 30 or until there is not sufficient allocation for another full day of fishing and the area is therefore closed. The additional dates for the South Coast subarea are August 26 and 27, and September 8, 9, and 22, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed.

Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

#### *Columbia River subarea*

*Description of the action:* This inseason action implements additional fishing dates for the Columbia River subarea during the 2023 recreational fishery, opening the fishery on August 26 and 27, and September 8, 9, and 22. The subarea may close sooner if there is projected to be insufficient allocation for another full day of fishing and the subarea is therefore closed.

*Reason for the action:* The purpose of this inseason action is to provide additional opportunity for anglers in the Columbia River subarea to achieve the subarea allocation. NMFS has determined that these additional dates are warranted due to lower than expected landings through June 18, and the expectation that a substantial amount of the Columbia River subarea allocation will go unharvested without additional fishing dates. The recreational fishery in this subarea opened on May 4, 2023. As of June 18, anglers in the Columbia River subarea have harvested 12,213 lb (5.54 mt) of the 18,875 lb (8.56 mt) allocation (65 percent), leaving 6,661 lb (3.02 mt) remaining (35 percent of the subarea allocation).

After consulting with WDFW and ODFW, it was determined that in order for anglers to have the opportunity to achieve the Columbia River subarea allocation, with little risk of the subarea or coastwide allocation being exceeded, additional fishing dates are warranted. Therefore, through this action, NMFS is announcing fishing dates in August and September that were not previously implemented in the final rule on April 11, 2023 (88 FR 21503, April 11, 2023) or through inseason action implemented on June 2, 2023 (88 FR 36973).

Specifically, the additional season dates for the Columbia River subarea are August 26 and 27, and September 8, 9, and 22. The subarea may close sooner if there is projected to be insufficient allocation for another full day of fishing and the subarea is therefore closed.

Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

*Oregon Central Coast subarea*

*Description of the action:* This inseason action implements additional fishing dates for the Oregon Central Coast subarea during the 2023 recreational fishery, opening the fishery 7 days per week beginning on August 3 and closing when the entire Oregon Central Coast allocation (including the nearshore allocation) is projected to be reached, or on October 31, whichever comes first.

*Reason for the action:* The purpose of this inseason action is to provide additional opportunity for anglers in the Oregon Central Coast subarea to achieve the subarea allocation. NMFS has determined that additional fishing days are warranted due to lower than expected landings through June 18, 2023, and the expectation that a substantial amount of the Oregon combined allocation will go unharvested without additional fishing days. The recreational fishery in this subarea opened on May 1, 2023. As of June 18, anglers in the Oregon Central Coast subarea have harvested 98,342 lb

(44.61 mt) of the 275,214 lb (124.84 mt) allocation (36 percent), leaving 176,872 lb (80.23 mt) remaining (64 percent of the overall subarea allocation).

After consulting with ODFW, it was determined that in order for anglers to have the opportunity to achieve the overall Central Coast subarea allocation, with little risk of the subarea or coastwide allocation being exceeded, additional fishing dates are warranted. Therefore, through this action, NMFS is announcing fishing dates in August, September, and October that were not previously implemented in the final rule on April 11, 2023 (88 FR 21503) or through inseason action implemented on June 2, 2023 (88 FR 36973).

Notice of these additional fishing dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

### **Classification**

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c)(6), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. WDFW and ODFW provided updated landings data to NMFS on June 23, 2023, showing that through June 18, fishery participants in the recreational fishery off of Washington had caught only 44 percent of the Puget Sound subarea allocation, 42 percent of the North Coast subarea allocation, and 67 percent of the South Coast subarea allocation; fishery participants in the Columbia River subarea had caught only 65 percent of the subarea allocation; and fishery participants in the recreational fishery off of Oregon had caught only 36 percent of Central Coast subarea allocation. NMFS uses fishing rates from previous years to determine the number of recreational fishing dates needed to attain subarea allocations.



Given the lower than expected catch rates in the Washington Puget Sound, North Coast, and South Coast subareas; the Columbia River subarea; and the Oregon Central Coast subarea, additional dates are considered necessary to increase angler opportunity to reach the overall Washington and Oregon subarea allocations. This action should be implemented as soon as possible to allow fishery participants to take advantage of the additional season dates. As the fisheries close on September 30, 2023 in Washington and the Columbia River subareas and on October 31, 2023 in Oregon, implementing this action through proposed and final rulemaking would limit the benefit this action would provide to fishery participants. Without implementation of additional season dates in the Washington Puget Sound, North Coast, and South Coast subareas, the Columbia River subarea, and the Oregon Central Coast, the overall Washington and Oregon allocations are unlikely to be harvested, limiting economic benefits to the participants and not meeting the goals of the Catch Sharing Plan. It is necessary that this rulemaking be implemented in a timely manner so that planning for additional season dates can take place, and for business and personal decision making by the regulated public impacted by this action, which includes recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for this fishery, among others. To ensure the regulated public is fully aware of this action, notice of this regulatory action will also be provided to anglers through a telephone hotline, news release, and by the relevant state fish and wildlife agencies. NMFS will receive public comments for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(6)(iv). No aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c).

For the reasons discussed above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in effectiveness of this action would constrain

fishing opportunity and be inconsistent with the goals of the Catch Sharing Plan, as well as potentially limit the economic opportunity intended by this rule to the associated fishing communities. This inseason action is not expected to result in exceeding the allocation for these subareas. NMFS regulations allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea allocations, provided that the action allows allocation objectives to be met and will not result in exceeding the catch limit for the subarea. NMFS recently received information on the progress of landings in the recreational fisheries in Washington and Oregon subareas, indicating additional season dates for Washington and Oregon should be implemented in the fishery to ensure optimal harvest of the subarea allocations. As stated above, it is in the public interest that this action is not delayed, because a delay in the effectiveness of these new dates would not allow the allocation objectives of the recreational Pacific halibut fishery to be met.

**Authority:** 16 U.S.C. 773-773k.

Dated: July 17, 2023.

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National Marine Fisheries Service.